

Remarks

Claims 11-15, 17, 18, 20, and 27-29 are pending and under consideration. According to pages 2-5 of the outstanding Office action, claims 11-15, 17, 18, 20, and 27-29 presently stand rejected under the judicially created doctrine of obviousness-type double patenting over certain claims of U.S. Patent No. 6,610,271 in view of one or more of U.S. Patent No. 5,166,202 to Schweizer (hereinafter "Schweizer"), Fisgin *et al.* (2000) J. Child Neurol. 15:833-835 (hereinafter "Fisgin"), and Knoester *et al.* (2002) Br. J. Clin. Pharmacol. 53:501-507 (hereinafter "Knoester"). Further, according to pages 6-8 of the outstanding Office action, claims 11-15, 17, 18, 20, and 27-29 presently stand rejected under the judicially created doctrine of obviousness-type double patenting over claims 1-24 of U.S. Patent Application Serial No. 11/376,979 in view of one or more of Schweizer, Fisgin, and Knoester.

Applicant, without acquiescing to the merits of the rejections based on U.S. Patent No. 6,610,271 and U.S. Patent Application Serial No. 11/376,979, encloses a Terminal Disclaimer to obviate the rejections. Applicant respectfully requests that the rejections be reconsidered and withdrawn.

Conclusion

Early favorable action is respectfully solicited. Further, the Office is invited to contact the undersigned with any questions about this submission.

Dated: March 25, 2009

Respectfully submitted,

/Chad E. Davis/

Chad E. Davis

Registration No.: 56,179

GOODWIN PROCTER LLP

Exchange Place

Boston, Massachusetts 02109

(617) 570-1000

Attorney for Applicant